KNOW HOW TO MAKE

YOUR WILL

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How to Put Your Affairs in Legal Order

BY

A BARRISTER

For the Man or Woman with little as well as for those possessed of great wealth

A complete Guide for Executors and Administrators of Estates

WITH MANY

SPECIMEN WILLS

AND

A SPECIAL SECTION

APPERTAINING TO

SCOTS LAW

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CHAPTER I

CHAPTER II

CHAPTER III

CHAPTER IV

CHAPTER V

CHAPTER VI

CHAPTER VII

CHAPTER VIII

CHAPTER IX

CHAPTER X

SCOTS LAW SECTION, p.103

CHAPTER I

THE IMPORTANCE OF MAKING A WILL

A GREAT deal of needless trouble is caused when people neglect to make their wills. To make a will is just as important for a woman as for a man.

A will takes effect on the death of the testator—that is, the person duly making the will—and accordingly refers to the property which the testator dies possessed of, or in any manner may become entitled to possess.

Therefore, although a man may at the present time have only property of small value, it is an important, and often an imperative, duty for him to look forward to the future and to make provision by will, as far as may be, for those who are or may become dependent on him.

Especially may this be urged in the case of a married man. If young, he, perhaps, for the time being, has not much scope for adding to capital out of income ; but if prudent he doubtless will have effected an insurance policy on his life, which will enable him to make, by will, some provision for wife and children in the event of his death from accident or other cause. Such a man should not defer his will-making until he has accumulated wealth, or firmly established a position for himself in life, or until he may be incapacitated by illness from carrying out his duties.

The foregoing remarks as to married men apply also to married women who have money or other

property of their own, or have expectations of receiving some.

Now that almost all business careers and opportunities of earning income are open to women, it cannot be superfluous to urge upon them, no less than upon men, the need of will-making.

In this book it is proposed to give, so far as possible in untechnical language instructions to enable the reader—who, for the sake of economy or other reason, does not wish to employ a solicitor—to make his own will, without any further legal advice than is contained in this small volume.

Every one, whether married or single, must have certain definite wishes as to the disposal, after his death, of his property, even if it consists only of a few personal belongings, such as watch and chain, jewellery, books, china and household furniture, or even a favourite piano.

Those wishes have no legal effect unless they are expressed in writing by means of a will, which may also name as executor a trusted relation or friend, who will see that they are carried into effect.

In the event of the death of a man or woman who has neglected to make a will, what is technically known as " an intestacy " occurs. He or she is said to have died " intestate," and the state or property devolves to, or has to be distributed among, relations according to statute law.

If there are no near relations, the property will be forfeited to the Crown—that is, it will belong to the State.

The law relating to the distribution of the estates of intestates is mainly contained in the Administration

of Estates Act, 1925. The provisions of this Act are complicated, and may involve considerable difficulty in being carried into effect.

This adds a further argument in favour of will-making. Indeed, the neglect of any person to make a will may cause serious deprivation to those for whom he or she was really anxious to provide, and, on the other hand, funds may pass to relations not in need of financial help, or go to the Crown, as before stated.

Thus negligence, or unreasonable aversion, to make a will, may cause an irreparable wrong to those who have the first claim to assistance.

Another important matter to be borne in mind is that on the death of an intestate there are no executors or executor to look after the property and to take all proper steps with regard to the affairs. It will be necessary therefore for some relation or other person to obtain from Somerset House an official document technically known as "Letters of Administration" to the estate before any step can be taken with regard to the property.

The person to be appointed administrator of the estate or property is required by law to enter into a bond with, in almost all cases, at least two approved sureties, for a sum equivalent to double the value of the estate.

This cannot be regarded as a mere formality, as the administrator and each surety will, under the bond, become legally responsible up to the full amount (called the penalty) of the bond, for the due administration of the estate.

Naturally many prudent persons have very strong

objections to undertaking such a responsibility as suretyship under an administration bond.

Some insurance companies will undertake the responsibility of such suretyship on payment, out of the estate, of one lump sum, or a yearly premium, being a percentage on the value of the estate. Such insurance must be continued by renewed yearly premiums until the estate has been finally distributed.

In the event of there being infant children (i.e. under twenty-one) entitled to share, the state could not be finally wound up until the youngest of the children had attained the age of twenty-one years.

The expenses of obtaining " Letters of Administration " are certainly more than the ordinary expenses of obtaining what is called " Probate " of the will, a procedure which is fully explained in Chapter VII of this book.

When making a will it is proper to appoint two or more executors, although one executor or executrix (i.e. female executor) is sufficient. If all the testator's property is left to his wife absolutely, it will be convenient that she should be appointed sole executrix. But where there are children or others to be provided for, it is customary to appoint two or more executors, of whom the wife may be one.

The testator has the advantage of being able to select as his executors those in whom he can place confidence, and he has the satisfaction of knowing that his affairs will be in their hands, instead of in the hands of an unknown administrator.

The executors appointed may be relations or friends of the testator, and anyone over twenty-one can act.